

§ 1450.3

(C) Animal waste and byproducts (including fats, oils, greases, and manure); and

(D) Food waste and yard waste.

Socially disadvantaged farmer or rancher means, unless other classes of persons are approved by CCC in writing, a farmer or rancher who is a member of a group whose members have been subject to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Groups include:

(1) American Indians or Alaskan Natives;

(2) Asians or Asian Americans;

(3) Blacks or African Americans;

(4) Native Hawaiians or other Pacific Islanders; and

(5) Hispanics.

Technical assistance means assistance in determining the eligibility of land and practices for BCAP, implementing and certifying practices, ensuring contract performance, and providing annual rental rate surveys. The technical assistance provided in connection with BCAP to owners or operators, as approved by CCC, includes, but is not limited to: Technical expertise, information, and tools necessary for the conservation of natural resources on land; technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of eligible practices; and technical infrastructure, including activities, processes, tools, and functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

Tribal government means any Indian tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to 43 U.S.C. 1601–1629h (the Alaska Native Claims Settlement Act), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Violation means an act by the participant, either intentional or unintentional,

7 CFR Ch. XIV (1–1–13 Edition)

that would cause the participant to no longer be eligible to receive or retain all or a portion of BCAP payments.

Yard waste means any renewable biomass generated from municipal or residential land, such as urban forestry materials, construction or demolition materials, trimmings from grasses and trees, or biomass removed due to invasive species or weather-related disaster, that can be separated from and has low potential (such as contamination with plastics, metals, chemicals, or other toxic compounds that cannot be removed) for the generation of toxic byproducts resulting from conversion, and that otherwise cannot be recycled for other purposes (such as post-consumer waste paper).

[75 FR 66234, October 27, 2010, as amended at 76 FR 56951, Sept. 15, 2011]

§ 1450.3 General.

(a) The objectives of BCAP are to:

(1) Support the establishment and production of eligible crops for conversion to bioenergy and biobased products in selected project areas; and

(2) Assist agricultural and forest landowners and operators with matching payments to support the collection, harvest, storage, and transportation costs of eligible material for use in a biomass conversion facility.

(b) A participant must implement and adhere to a conservation plan, forest stewardship plan, or equivalent plan prepared in accordance with BCAP guidelines, as established and determined by CCC. A conservation plan, forest stewardship plan, or equivalent plan for contract acreage must be implemented by a participant and must be approved by the conservation district in which the lands are located, or, in the case of Federal lands, the appropriate approval authority of jurisdiction. If the conservation district declines to review the conservation plan, forest stewardship plan, or equivalent plan, the provider of technical assistance may take such further action as is needed to account for lack of such review.

(c) Agricultural and forest landowners and operators must comply with any applicable existing conservation plan, forest stewardship plan, or

Commodity Credit Corporation, USDA

§ 1450.7

equivalent plan and all other applicable laws, regulations, or Executive Orders for any removal of eligible material for use in a biomass conversion facility to receive matching payments.

(d) Except as otherwise provided in this part, a participant may receive, in addition to any payments under this part, financial assistance, rental or easement payments, tax benefits, or other payments from a State or a private organization in return for enrolling lands in BCAP, without any commensurate reduction in BCAP payments.

§ 1450.4 Violations.

(a)(1) If a participant fails to carry out the terms and conditions of a BCAP contract, CCC may terminate the BCAP contract.

(2) If the BCAP contract is terminated by CCC in accordance with this paragraph:

(i) The participant will forfeit all rights to further payments under the contract and must refund all payments previously received, plus interest; and

(ii) The participant must pay liquidated damages to CCC in an amount as specified in the contract.

(b) CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and would not deter the accomplishment of the purposes of BCAP.

§ 1450.5 Performance based on advice or action of USDA.

(a) The provisions of § 718.303 of this title relating to performance based on the action or advice of an authorized representative of USDA apply to this part, and may be considered as a basis to provide relief to persons subject to sanctions under this part to the extent that relief is otherwise permitted by this part.

(b) [Reserved]

[75 FR 66234, October 27, 2010, as amended at 76 FR 56951, Sept. 15, 2011]

§ 1450.6 Access to land.

(a) For purposes related to this program, the participant must upon request provide any representative of USDA, or designee thereof, with access to land that is:

(1) The subject of an application for a contract under this part; or

(2) Under contract or otherwise subject to this part.

(b) For land identified in paragraph (a) of this section, the participant must provide such representatives or designees with access to examine records for the land to determine land classification, eligibility, or for other purposes, and to determine whether the participant is in compliance with the terms and conditions of the BCAP contract.

§ 1450.7 Division of payments and provisions about tenants and sharecroppers.

(a) Payments received under this part will be divided as specified in the applicable contract. CCC may refuse to enter into a contract when there is a disagreement among persons or legal entities seeking enrollment as to a person's or legal entity's eligibility to participate in the contract as a tenant or sharecropper, and there is insufficient evidence, as determined by CCC, to indicate whether the person or legal entity seeking participation as a tenant or sharecropper has an interest in the acreage offered for enrollment in the BCAP.

(b) CCC may remove an operator or tenant from a BCAP contract when:

(1) The operator or tenant requests in writing to be removed from the BCAP contract;

(2) The operator or tenant files for bankruptcy and the trustee or debtor in possession fails to affirm the contract, to the extent permitted by applicable bankruptcy laws;

(3) The operator or tenant dies during the contract period and the administrator of the estate fails to succeed to the contract within a period of time determined appropriate by CCC; or

(4) A court of competent jurisdiction orders the removal of the operator or tenant from the BCAP contract and such order is received by CCC.

(c) Tenants who fail to maintain tenancy on the acreage under contract for any reason may be removed from a contract by CCC.